

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 01-455-A
)	
ZACARIAS MOUSSAOUI)	
a/k/a "Shaqil,")	
a/k/a "Abu Khalid)	
al Sahrawi,")	
)	
Defendant.)	

ORDER

Counsel for the defendant have filed a Motion to Hold Hearing In Camera and Ex Parte, if Necessary, and for Extension of the Date on Which to File Pretrial Motions. The United States has filed its response, in which it objects to the first two requests and does not oppose the last two.

Without citing to any authority, defense counsel ask that the hearing concerning the defendant's competency to waive counsel and proceed pro se be closed to the public solely because information concerning the mental health evaluations of defendant might be revealed. Competency hearings are routinely held in open court in this district. Nothing in the forensic reports filed in this case addresses details which are so unique or sensitive as to justify a closed hearing and defense counsel have not articulated any compelling reasons to overcome the strong First and Sixth Amendment interests in open criminal proceedings. See Press-Enterprise Co. v. Superior Court, 478 U.S. 1, 8-14

(1986); In re State-Record Co., Inc., 917 F.2d 124, 129 (4th Cir. 1990). Therefore, defense counsel's request to conduct this hearing in camera is DENIED.

Counsel also request that any statement by Mr. Moussaoui during the hearing be made ex parte. Mr. Moussaoui has already been advised by the Court about the dangers to his defense of making statements on the record about his case. If Mr. Moussaoui is found competent to represent himself, he will have a right to speak in open court so long as the statements are appropriate for a judicial proceeding, even if he reveals attorney-client communications or undercuts his own defense. Therefore, this request is DENIED.

Whether additional time to file pretrial motions pursuant to Fed. R. Crim. P. 12 is needed will be resolved during the June 13, 2002 hearing. Therefore, defendant's request for an extension of time in which to file pretrial motions is DEFERRED.

Lastly, the Court has carefully considered all of the forensic reports filed to date and does not expect that testimony of the mental health experts will add anything to the record. However, the Court will grant counsel's request that the Court keep open the option of hearing testimony from the defense's retained mental health experts on June 13, 2002, so long as such testimony is not cumulative.

For all these reasons, defendant's Motion to Hold Hearing In

Camera and Ex Parte, if Necessary, and for Extension of the Date on Which to File Pretrial Motions is GRANTED in part and DENIED in part.

The Clerk is directed to forward copies of this Order to counsel of record, the defendant, and the Court Security Officer.

Entered this 11th day of June, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia